

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

CONCRETIZE, INC., an Oregon
corporation,

08-CV-213-BR

Plaintiff,

ORDER

v.

FIRESHIELD, INC., a
Washington corporation;
ANDREW MOREN; and ROBERT
MOREN,

Defendants.

MATTHEW A. LEVIN
STACY R. OWEN

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BROWN, Judge.

This matter comes before the Court on Defendants' Motion (#88) for Partial Summary Judgment. Plaintiff's claims and Defendants' counterclaims arise out of the same facts. For purposes of this Order only, the following summary of the facts suffices: The parties entered into several contracts in which Defendants engaged Plaintiff to develop computer software initially to allow mobile location and inspection of fixed assets such as fire hydrants. After performing under those contracts, the parties began negotiating the formation of a joint business entity that would expand on the work the parties had already performed and, in particular, on the software platforms that the parties had conceived and developed. Those negotiations eventually broke down. The parties now dispute, *inter alia*, whether the parties breached various alleged contractual obligations, whether Defendants defrauded Plaintiff, and the

nature of the parties' rights with respect to the intellectual property the parties conceived and developed.

On April 26, 2010, the Court heard oral argument on Defendants' Motion for Partial Summary Judgment at which time the Court directed Plaintiff to file supplemental memoranda clarifying the factual and legal bases for each of its claims. On May 25, 2010, Plaintiff filed its supplemental memoranda. On June 8, 2010, in accordance with the Court's Order (#106), Defendants notified the Court that they elected not to file any supplemental memoranda in response.

On July 27, 2010, the Court again heard oral argument on Defendants' Motion. For the reasons stated on the record, the Court made the following rulings:

1. The Court held the record on summary judgment was insufficient to permit a rational juror to conclude the parties formed a partnership under Oregon law. Accordingly, the Court **GRANTED in part** Defendants' Motion (#88) to the extent any of Plaintiff's claims rely on the existence of a partnership as an element of the claim.
2. The Court held issues of fact remain as to each claim that is not dependent on the formation of a partnership

between the parties. Accordingly, the Court **DENIED in part** Defendants' Motion (#88).

IT IS SO ORDERED.

DATED this 28th day of July, 2010.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge